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*** Current through the 2014 Regular Session and amendments approved at the November 4, 2014 General Election ***

Title 41 Correctional Institutions and Inmates
Chapter 4 Jails and Jailers

Tenn. Code Ann. § 41-4-140 (2014)

41-4-140. Standards prescribed by the Tennessee corrections institute.

(a) The Tennessee corrections institute has the power and duty to:

(1) Establish minimum standards for local jails, lock-ups and workhouses, including, but not limited to, standards for physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates and standards for the safekeeping, health and welfare of inmates. The standards shall be established by the Tennessee corrections institute and shall approximate, insofar as possible, those standards established by the inspector of jails, federal bureau of prisons, and by the American Correctional Association's Manual of Correctional Standards, or such other similar publications as the institute deems necessary;

(2) Establish guidelines for the security of local jails, lock-ups and workhouses for the purpose of protecting the public from criminals and suspected criminals by making the facilities more secure and thereby reducing the chances that a member of the public or a facility employee will be killed or injured during an escape attempt or while an inmate is fleeing from law enforcement officials following an escape;

(3) Inspect all local jails, lock-ups, workhouses and detention facilities at least once a year and publish the results of the inspections. Inspections shall be based on the established standards mentioned in subdivision (a)(1); and

(4) Have full authority to establish and enforce procedures to ensure compliance with the standards set out in subdivision (a)(1) so as to ensure the welfare of all persons committed to the institutions. Failure on the part of the county, municipality or political subdivision to maintain standards established under this section shall be reported by the board of control of the institute to the commissioner of correction, sheriff, judge, mayor or head of the political subdivision, as appropriate, in which the jail or penal institution is located. This report shall specify deficiencies and departures from the standards and order their correction. At the request of the commissioner, the institute may assist the department of correction in establishing standards for state institutions similar to the standards provided for in subdivision (a)(1).

(b) (1) If, after inspection of a local correctional facility as provided in subdivision (a)(3),

the facility is determined not to be in compliance with the minimum standards, the board of control or any of its authorized staff may grant the facility an extension not to exceed sixty (60) days for the purpose of making such improvements as are necessary to bring the facility into compliance with the minimum standards. During the period of extension, the facility shall maintain the same certification status as it had prior to the most recent inspection. No additional extensions may be granted, and the certification status given a facility upon reinspection shall be the facility's status until the next annual inspection.

(2) No local correctional facility shall be denied a certificate of compliance with the minimum standards for the sole purpose of calculating the level of reimbursement upon the certified or not certified determination, if the sole cause is based on overcrowding because of prisoners sentenced to the department whose commitments are delayed pursuant to chapter 1, part 5 of this title, or pursuant to a federal court order when such prisoners are being held by a county pending such commitment.

(c) (1) The minimum standards established pursuant to subsection (a) shall also apply to any jail, lock-up or workhouse used for the temporary housing or the incarceration of persons convicted or accused of a state or federal criminal offense that is owned or operated in this state by a private person or corporation.

(2) The institute also has the duty to inspect, at least once a year, all the private jails, lock-ups and workhouses operating in this state that hold prisoners of any Tennessee jurisdiction in the same manner as is provided in subsection (a).

(3) If, after inspection of a private correctional facility as provided in this section, the facility is determined not to be in compliance with the minimum standards, the board of control or any of its authorized staff may grant the facility an extension not to exceed sixty (60) days. If the facility is still not in compliance with the applicable standards, the operators of the facility shall be in violation of this section.

(4) It is a Class A misdemeanor to operate a private correctional facility in violation of this section. If the operator of a private correctional facility is convicted of violating this subsection (c) and the owner of the facility is a person or corporation other than the operator, the owner shall be prohibited from holding any interest in a company or corporation that is engaged in this state in the temporary housing or the incarceration of persons convicted or accused of a state or federal criminal offense for a period of two (2) years.

(5) This section shall not apply to a private correctional facility operated pursuant to chapter 24 of this title, nor to a contract with a political subdivision of the state.

(d) No local currently certified facility shall be decertified if the local government has submitted a plan within sixty (60) days of the initial annual inspection that is reasonably expected to eliminate fixed ratio deficiencies in that facility and cause that facility to remain certified.

(e) The total number of prisoners awaiting transfer to the department penal system shall be discounted from any computations used to determine compliance with standards used by the institute if the governor has invoked the power of delayed intake pursuant to § 41-1-504(a)(2), or a federal or state court has delayed intake into the department penal system, or both such events.

(f) (1) Notwithstanding subsection (a), any local correctional facility:

(A) Shall meet the square footage requirements for single-occupancy or multi-occupancy cells contained in the minimum standards required by the Tennessee corrections institute that were in effect at the time of the construction of the facility; or

(B) May elect to conform to a more recent minimum standards required by the American Correctional Association in order to accommodate a larger inmate population.

(2) A local correctional facility constructed before the effective date of any minimum standards required by the Tennessee corrections institute shall be exempt from the square footage requirements described in this subsection (f), unless the exemption poses a serious life, safety, or security hazard as determined by the board of control of the Tennessee corrections institute.

HISTORY: Acts 1973, ch. 191, § 1; impl. am. Acts 1978, ch. 934, §§ 16, 36; 1980, ch. 913, §§ 2-6; T.C.A., § 41-1144; Acts 1984, ch. 938, §§ 11-13; 1985, ch. 161, § 1; 1987, ch. 258, § 1; 1989, ch. 477, §§ 1-3; 1989, ch. 591, §§ 1, 6; 1991, ch. 300, § 1; 1995, ch. 487, § 2; 1996, ch. 1079, §§ 128-131; 2009, ch. 242, § 1; 2014, ch. 535, § 1.